

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kevin Blake,
Petitioner-Appellant,

v.

Scott County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-82-0741
Parcel No. 922223003

On November 17, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Kevin Blake, requested the appeal be considered without hearing and submitted evidence in support of his petition. He is self-represented. The Board of Review designated Assistant Scott County Attorney Robert Cusack as its legal representative. It also certified its record. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Kevin Blake, owner of property located at 22631 Maysville Road, Walcott, Iowa, appeals from the Scott County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story frame dwelling having 3571 total square feet of above-grade living area, a full unfinished basement, and a 933 square-foot attached garage. The main dwelling was built in 1900, the three-car garage was added in 2004, and the property was extensively renovated including one and two-story additions in 2007. The dwelling is situated on a 4.140 acre site. There are thirteen agricultural outbuildings and grain bins on the site. The property classification was changed from agricultural to residential in 2000. The overall condition of the property was raised from normal to very good and the grade classification was increased to 3-10 in the 2009 assessment.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$330,750, representing \$49,610 in land value and \$281,140 in improvement value.

Blake protested to the Board of Review on the ground that the assessment is not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); and that the property is assessed for more than the value authorized by law under section 441.37(1)(b). He claimed that \$245,000 was the actual value and a fair assessment of the property. The Board of Review inspected the property and changed the overall condition of the dwelling from very good to above normal, adjusted the room count, and allowed a 5% adjustment for incomplete trim work. It granted the protest and reduced the total value to \$306,850 allocating \$49,610 to land value and \$257,240 to improvements. The improvement value included both the \$206,890 dwelling and the \$50,350 outbuilding values. Board of Review minutes noted a hog confinement and turkey farm within one mile of the dwelling, as well as semi-truck traffic from the grain bins, all of which were considered within the reduction.

Blake filed his appeal with this Board and urged the grounds that the assessment was not equitable as compared with assessments of other like property in the taxing district under section 441.37(1)(a); and that there was an error in the assessment under section 441.37(1)(d). In a letter supplementing his petition, Blake also contended that his property is over-assessed under section 441.37(1)(b). Since only the grounds of inequity and over-assessment, not the ground of error, have been presented to the Board of Review, the Appeal Board is precluded from addressing an error claim for the first time on appeal. § 441.37A(1). Therefore, the grounds that the property is inequitably assessed under section 441.37(1)(a); and over-assessed under section 441.37(b) are the only grounds that will be considered by this Board.

According to the property record card, Blake purchased the property for \$164,000, in 1999. He applied for a \$106,862 building permit to demolish part of the old structure, renovate and enlarge the

dwelling. In Blake's opinion, even though the property has been recently renovated, half of it is still a 109 year-old house on an old limestone foundation with outdated heating, and outbuildings in need of demolition or repair. He believed the outbuildings and grain systems are an "eye sore" and negatively affect the property's market value. He explained that grain trucks cause significant traffic from hauling grain directly in front of his house. He reported the drying fans cause excessive noise when in use. Blake reported \$4000 annual income from grain bin rental. Blake also provided information on four farms that are listed for sale in the area which he considers comparable to his after considering adjustments for lot size and outbuilding condition. However, since none of these properties have sold, this Board does not consider them to be indicative of the properties' actual market values for assessment purposes.

Blake submitted an appraisal completed by Katherine Messmer of Messmer Appraisal Service in Davenport. The appraisal was completed for lender refinancing. She described the location as a rural farm area of updated 100 year-old farmhouses with wells, septic systems and LP gas usage. She reported a new roof, windows, and HVAC for the additions as part of the renovations. She estimates an effective age of 20 years for the dwelling. Messmer completed a sales approach valuation using three comparable properties. The sales prices ranged from \$210,000 to \$280,000 with the median sale price of \$275,000. Price per square foot ranged from \$88.55 to \$110.53 per square foot with a median of \$92.43 per square foot. Messmer indicated value for the subject property was \$245,000 as of March 17, 2008, apparently excluding the value of the grain bins and outbuildings on the site. Messmer's adjustments are based on 3399 square feet of above-grade gross living area in the subject property which is 172 square foot less than the measurement on the assessor records.

Gary Penningroth of Penningroth Appraisals in De Witt completed an appraisal for the Board of Review. Penningroth reported acreage properties on a hard-surfaced road, such as the subject property, are normally in high demand and sell within a short period of time. He described the site as

gently sloping with good drainage not subject to flooding. He noted the recent dwelling upgrades and amenities. In his opinion, the property was in good repair but still needed trim around windows and doors. Penningroth observed that the older part of the house was refurbished with new drywall, wiring, plumbing and some new windows. According to the report, an old boiler heated the original part of the house and a newer furnace heated the addition. Penningroth's adjustments are based on 3571 square feet of above-grade gross living area in the subject property which is the same measurement on the assessor records.

Penningroth used three comparables to complete a sales approach to valuation; a 2009 sale, a 2007 sale and a 2005 sale. The sales prices ranged from \$305,000 to \$490,000 with the median sale price of \$325,000. Price per square foot ranged from \$125.39 to \$257.76 per square foot with a median of \$156.89 per square foot. He acknowledged that two of the sales were dated, however, no other sales of older homes with outbuildings were available in the market area. No time of sale adjustments were made. The comparables were adjusted for site size, garage count, gross living area, garage size, outbuildings and location on gravel versus paved road surfaces. He also made downward adjustments for larger acreages on two of the comparables and brick exterior on another.

Penningroth reported that two of the grain bins have dryers and two have vented floors and fans. His indicated value by the sales approach was \$383,000, including the value of the grain bins and outbuildings, as of the assessment date of January 1, 2009. Penningroth also developed a cost approach to valuation using Marshall Swift Valuation Service indicating a replacement cost new less depreciation of \$398,193. Blake does not believe the properties used by Penningroth are comparable to his property based on the age and amenities of these properties.

Of the two appraisals presented for consideration, the Penningroth report offers the least credibility. The Penningroth report has excessive, unexplained adjustments and questionable methodology. The gross living area adjustments seem to be high at \$35 per square foot, given that the

subject is roughly 1000 to 1650 square feet larger than the comparables presented. There is no explanation by Penningroth identifying if the subject is or is not an over-improvement in terms of living area. Similarly, the site size adjustments in the Penningroth report are adjusted at a flat \$10,000 per acre regardless of size. This does not seem to consider or identify potential factors of decreasing return. Additionally, Penningroth uses dated sales with insufficient explanation/support for doing so and offers no time adjustments or explanation for lack of such adjustments.

While we find the Messmer appraisal to offer more credibility we are hesitant to rely exclusively on this appraisal because its valuation date precedes the assessment date by over nine months; and because it excluded the gain bins and majority of the other outbuildings. However, Messmer's adjustments are believed to be more supportable given the large living area of the subject and the methodology is considered to be sounder. We note that the Board of Review's value of the dwelling and land, excluding the outbuilding value, is within a reasonable range of Messmer's \$245,000 conclusion.

Reviewing all the evidence, we find that Blake's January 1, 2009, property assessment is equitable as compared to like properties in the taxing jurisdiction and reflects its fair market value.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" is summarily defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). We find that the evidence does not support a finding that the Blake property is assessed for more than its fair market value.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."


Id. at 579-580. The gist of this second test is ratio difference between the assessed and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

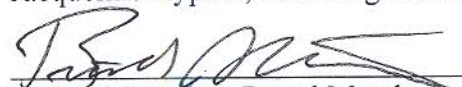
Viewing the evidence as a whole, we determine Blake failed to provide that his property is assessed inequitably as compared to like properties in the county as of January 1, 2009. We, therefore,

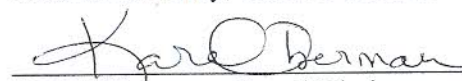
affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$306,850, representing \$49,610 in land value and \$257,240 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Scott County Board of Review is affirmed.

Dated this 16 day of DECEMBER 2009.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12/16, 2009</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	